

FILED

AUG 14 2013

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

Clerk, U.S. District Court
District Of Montana
Missoula

MISSOULA DIVISION

STANFORD ALLEN LEWIS, JR,

Plaintiff,

vs.

EXTRADITION TRANSPORT OF
AMERICA,

Defendant.

Cause No. CV 13-00138-M-DWM-JCL

FINDINGS AND RECOMMENDATIONS OF
UNITED STATES MAGISTRATE JUDGE

Pending is Plaintiff Stanford Lewis' Motion for Summary Judgment. In his motion, Lewis refers to a November 28, 2012 Findings and Recommendations issued by this Court in the matter of *Avery v. Extradition Transport of America*, Civil Action No. 11-00153-M-DWM. Lewis contends that the cases are functionally identical and therefore he should also be awarded \$75,000.00 which is the amount of default judgment awarded in the *Avery* case.

The Court agrees that the cases appear to be similar, in fact, Lewis seems to have copied the facts from the Findings and Recommendations issued by this Court in the *Avery* case. Be that as it may, default judgment was granted in the *Avery* case because Extradition Transport did not respond to the Complaint. There

was no determination on the merits made in the *Avery* case. Summary judgment should be denied.

Based on the foregoing, the Court issues the following:

RECOMMENDATIONS

1. Lewis' Motion for Summary Judgment (Dkt. 3) should be denied.
2. At all times during the pendency of this action, Lewis SHALL IMMEDIATELY ADVISE the Court of any change of address and its effective date. Failure to file a NOTICE OF CHANGE OF ADDRESS may result in the dismissal of the action for failure to prosecute pursuant to Fed.R.Civ.P. 41(b).

NOTICE OF RIGHT TO OBJECT TO FINDINGS & RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT

Pursuant to 28 U.S.C. § 636(b)(1), Lewis may serve and file written objections to these Findings and Recommendations within fourteen (14) days of the date entered as indicated on the Notice of Electronic Filing. Any such filing should be captioned "Objections to Magistrate Judge's Findings and Recommendations."

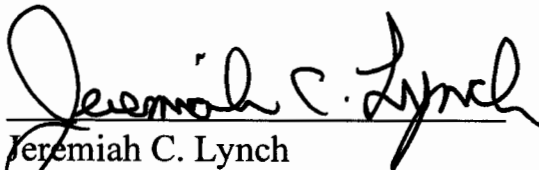
If Lewis files objections, he must itemize each factual finding to which objection is made and identify the evidence in the record he relies on to contradict that finding. In addition, he must itemize each recommendation to which

objection is made and set forth the authority he relies on to contradict that recommendation.

Failure to assert a relevant fact or argument in objections to these Findings and Recommendations may preclude Lewis from relying on that fact or argument at a later stage of the proceeding. A district judge will make a de novo determination of those portions of the Findings and Recommendations to which objection is made. The district judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district judge and/or waive the right to appeal.

This order is not immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Fed.R.App.P. 4(a), should not be filed until entry of the District Court's final judgment.

DATED this 14th day of August, 2013.


Jeremiah C. Lynch
United States Magistrate Judge